

STATEMENT OF DAVID BROWN

OP GRAND

1. I am the National Design Director for Sunland Group and have been since 2000.
2. I am responsible for high rise projects within the Sunland Group, in any manner, including accounts which relates to high rise projects, apart from construction related matters, comes to me. In particular, rates demands for high rise projects come to me for my perusal and approval.
3. Carnriver Pty Ltd is a company in the Sunland group and is the registered proprietor of land upon which the project, Circle on Cavill, is being developed.
4. I recall an occasion in March 2004 when I received a rate notice from the Gold Coast City Council in relation to this development. I clearly recall receipt of the notice because it was stated to be payable by 1 March and that date had already passed. I checked the notice and immediately approved it for payment and sent it to accounts with a note that it should urgently be paid. The handwritten notation that appears on the face of the notice saying "OK 16/03/04" is in my writing and is accompanied by my signature approving immediate payment.
5. The Sunland Group pays a large sum of money to the Council for rates; on an annual average, the rates bill relating to the high rise properties which I look after is approximately \$400,000. Taking all of the other land owned by the group, that figure would be almost doubled. Given the size of the total rates bill, the amount of discount available to the company is substantial and our practice is geared to ensure that the company takes advantage of these discounts.
6. I was therefore very surprised that this particular demand had only come to my notice well after the payment date, having been issued on 28 January.
7. I made inquiries but was unable to establish what had happened. In any event, I immediately authorised a cheque for the payment of the discounted amount being \$86,045.94, providing a brief explanation as to why the payment had been made after the due date.
8. Very shortly thereafter, I received a formal notice from the Council advising their intention to institute legal proceedings to recover the amount of the unpaid rates notice. I wrote to the Council on 26 March confirming a previous telephone call to the effect that we had already paid an amount in respect to the rates, informing them at the same time that the rates notice had not been received by Sunland until 16 March.
9. On 31 March, I received a letter acknowledging my correspondence, noting that they would consider our request to receive the benefit of the discount notwithstanding the late payment.
10. On 6 May, we received a response from the Council to the effect that we were required to pay the balance of the rates.
11. In response to that, I wrote to the Council on 31 May setting out a brief explanation as to why we had not been able to pay the rates within the permitted time in order to claim the discount. By telephone, I was informed that the matter would have to go higher up the chain of command and consequently, I wrote a letter on 18 June to Cassandra Kenyan, Manager, Financial Services for the Gold Coast City Council. That letter sets out the circumstances in which payment was not made by the due date.
12. I received a response to that letter dated 23 July, formally notifying us that the Council had rejected our submission to be allowed the discount, but had deducted any interest or other charges that had accrued on the unpaid amount. The amount of payment required was \$13,822.45.

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13. I spoke to Soheil Abedian about the matter. He suggested that we contact Ron Clarke, the Gold Coast City Council Mayor and make representations to him as to why we should be allowed the discount. A fax was sent to the Mayor on 29 July.
14. On 2 August, I received a telephone call from Ray Stevens, the Mayor's personal assistant, who suggested to me that before any consideration could be given to reversing the decision, it would be helpful if we could provide him with evidence showing that the initial rate demand had not immediately been received by Sunland. I generally discussed with Ray Stevens the fact that the notice had been addressed to Carnriver on the 18th level at 50 Cavill Avenue. I informed Ray Stevens that although Sunland (and its subsidiaries) had occupied that space, it had moved to the 14th level at 50 Cavill Avenue on 1 May 2003. I could only speculate that the tenants on the 18th level as at the end of January 2004 did not immediately recognise Carnriver as a Sunland company. In those circumstances, it had taken some time before the rates notice had found its way to us. I also made enquiries of our receptionist as to the procedure in relation to mail and she presented a signed statement describing the process.
15. The Falcon Group, the current tenants of the 18th level of 50 Cavill Avenue, wrote a letter to the Gold Coast City Council as did our receptionist, Sue Wilkshire. Both of those letters were sent to Ray Stevens..
16. Whilst these steps were being taken, Sunland received a "*Notice of Creditor's Intention to Instigate Advanced Action*" in respect to the unpaid portion of the rates. The sum demanded was \$13,922.34. At about that time, Carnriver Pty Ltd also received a rates notice in the sum of \$143,550.61. This covered the period 1st July to 31st December 2004 and included the amount of the discount owing from the previous rates notice. The notice was sent to Carnriver Pty Ltd at Sunland's post office box 1301, Surfers Paradise.
17. On the 17 September 2004, we paid the full amount requested but in the meantime, continued to make representations for relief from payment of the earlier discount.
18. The response from Ray Stevens was an invitation to attend a meeting of the Council's Finance Committee when this matter would be discussed. I agreed to attend the meeting and went with Anne Jamieson, the Sunland Group General Manager.
19. Present at the meeting were the Mayor, Ron Clarke, Councillors Molhoek, Power, Critchlow and Saroff along with the Finance Director for the Council. We were invited to speak and I took the opportunity of going through the relevant facts as had been previously relayed in correspondence. Anne Jamieson then spoke saying that the company paid a considerable amount annually by way of rates and given those amounts, took particular care to ensure we obtained the benefit of the discount. Anne also pointed out that Sunland considered itself to be a good corporate citizen and a responsible member of the local business community.
20. There was then some discussion by the Committee which took place in our presence. It was clear that Councillors Critchlow and Saroff were against the company as they felt it was "*unfair*" that Sunland should be afforded this benefit when other less well off rate payers might not. On the other hand, the Mayor and Councillors Molhoek and Power felt that Sunland had shown special circumstances and that the reasons put up by the company were sufficient to allow the Council to exercise its discretion in their favour. The subsequent vote approved the repayment to Sunland of the amount of the discount; it was resolved that the recommendation go to the Full Council meeting for their formal decision.
21. There was a meeting of the Full Council shortly thereafter at which the resolution was passed. Nobody from Sunland attended the Full Council meeting.
22. On 8th November 2004, Council issued a new rates notice in the sum of \$128,314.33, replacing the notice claiming \$143,550.61 which had previously been paid, noting a refund of \$13,120.33 for that previous rates notice. We were also notified that our account was now in credit by

\$15,236.28. On 23 December 2004, Council issued a refund in that sum. I am unable to understand how Council has calculated the amount of this refund.

23. Consistent with the suggestion made by Anne Jamieson at the Finance Committee meeting, Sunland then wrote out a cheque for the full amount of the refund (\$15,236.28) in favour of the Gold Coast Community Fund. The payee was nominated by the Mayor, Ron Clarke, at the request of Sunland.